IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL MISC. APPEAL No. 14 of 2005

THE ORIENTAL INSURANCE CO LTD.
V/S
PRADEEP & ANR

Mr. U.C.S.SINGHVI, for the appellant / petitioner

Date of Order : 10.1.2005

HON'BLE SHRI N P GUPTA,J.

ORDER

Heard learned counsel for the appellant.

The only contention raised is that the accident was not attributable to the sole negligence of driver of delinquent Tanker No. GJ-6/V-4375, rather it was a case of composite negligence of the driver of the Tanker as well as driver of Maruti Car wherein claimant was traveling and, therefore, award impugned is liable to be set aside.

Suffice it to say, without going into the question as to whether it is established to be a case of composite negligence or not, firsly this objection is not available to the insurer appellant, who has not applied for permission under Sec. 170 of the Motor Vehicles Act, secondly even if such objection is available, it is established law that even in cases of composite negligence, claimant is entitled to recover the entire amount of compensation from any of the tort feaser.

No other point was argued.

The appeal has thus no force, and same is hereby dismissed summarily.

(N P GUPTA),J.

/Srawat/